

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

PARK WEST GALLERIES, INC.,

Plaintiff,

Case No. 2:08-cv-12247

v.

Hon. Lawrence P. Zatkoff

GLOBAL FINE ART REGISTRY, LLC,
THERESA FRANKS, and BRUCE HOCHMAN,

Defendants.

PARK WEST GALLERIES, INC.,

Plaintiff,

Case No. 2:08-cv-12274

v.

Hon. Lawrence P. Zatkoff

DAVID CHARLES PHILLIPS,

Defendant.

OPINION AND ORDER

Plaintiff has designated certain portions of the direct examination it conducted with respect to the deposition of Marc Ways (“Ways”) and intends to read such portions into the record in this matter. Defendants intend to read into the record all of their cross-examination of Ways at his deposition.

Before the Court addresses the substance of any objection, it notes that Fed.R.Civ.P. 32(d)(3)(B) provides:

Objection to an Error or Irregularity. An objection to an error or irregularity at an oral examination is waived if:

- (i) it relates to the manner of taking the deposition, the form of a question or answer, the oath or affirmation, a party’s conduct, or other matters that might have been corrected at the time; and
- (ii) it is not timely made during the deposition.

With respect to the portion of the Ways' deposition to be read into the record by Plaintiff, Defendant Hochman recently filed 13 objections with the Court (Docket #300). Defendant Hochman, however, did not make any objections during the deposition of Ways. Accordingly, the Court overrules all of Defendant Hochman's objections recently filed with the Court.

Defendants Theresa Franks, Global Fine Art Registry, LLC and David Phillips have filed three objections to the portion of the Ways' deposition to be read into the record by Plaintiff (Docket #297). The Court addresses each, in turn:

- A. From page 18, line 25 through page 19, line 10. Objected to as a leading question. This objection is overruled.
- B. From page 26, line 23 through page 27, line 9. Objected to as a leading question. This objection is overruled.
- C. From page 34, line 16 through page 35, line 1. Objected to as hearsay. This objection is sustained.

Plaintiff has filed one objection to the portion of the Ways deposition to be read into the record by Defendants (Docket #303). Plaintiff contends that page 81, lines 20-24, should be stricken pursuant to the Court's ruling on March 8, 2010, with respect to Plaintiff's Motion in Limine #8 (set forth in Docket #274). Although this objection was not raised at the deposition, Fed.R.Civ.P. 32(d)(3)(B) is not applicable because the Court did not make its ruling regarding Motion in Limine #8 until well after the deposition was conducted. The Court holds that lines 20-24 on page 81 shall be redacted pursuant to this Court's ruling with respect to Motion in Limine #8.

IT IS SO ORDERED.

s/Lawrence P. Zatkoff
LAWRENCE P. ZATKOFF
UNITED STATES DISTRICT JUDGE

Dated: March 23, 2010

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of this Order was served upon the attorneys of record by electronic or U.S. mail on March 23, 2010.

s/Marie E. Verlinde
Case Manager
(810) 984-3290